

**MINUTES OF THE PLAN COMMISSION**  
**April 28, 2014**

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 7:03 p.m. at the Village Hall.

Members present: Chairman Mark Moore, Scott Adams, William Cotey, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: Dan Donahue.

Village Staff present: John Spoden, Director of Community Development; and David Smith, Senior Planner.

Commissioner Oakley moved, seconded by Commissioner Schultz, to approve the February 24, 2014, Plan Commission meeting minutes.

Motion carried 6 - 0.

**OLD BUSINESS:** None.

**NEW BUSINESS:**

**PC 14-12      Our House of Hope, Inc., Applicant**

**Request is for a Text Amendment to Section 7 of the Libertyville Zoning Code in order to include Environment, Conservation and Wildlife Organizations, limited to Humane Societies, as a permitted use in an I-1, Limited Industrial District.**

Mr. David Smith, Senior Planner, introduced the requested text amendment. He stated that the petitioner, Lisa Krinninger, is proposing a Text Amendment to Section 7 of the Libertyville Zoning Code in order to include Environment, Conservation and Wildlife Organizations, limited to Humane Societies, as a permitted use in an I-1, Limited Industrial District. He stated that if approved, this will allow Our House of Hope to take occupancy at 1840 Industrial Drive in Libertyville which is located in an I-1, Limited Industrial District.

Ms. Lisa Krinninger, the petitioner, stated that the House of Hope K-9 Rescue would provide education and volunteer services training, pet care training, and administrative office and support services in a 'headquarters' capacity. She stated that the I-1 District in Libertyville does not appear to be adjacent to any residential properties. She stated that there will be no boarding of animals at the intended site.

Commissioner Oakley asked if the petitioner intends to provide any veterinarian services. Ms. Krinninger stated that they will not provide vet services or overnight boarding of pets on site. She stated that the site on Industrial Drive will be used as a headquarters for their House of Hope agency.

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Chairman Moore asked for further clarification as to how rescued dogs are processed. Ms. Krinninger stated that House of Hope facilitates the rescue process. She stated that rescued dogs may be boarded in her residential home on a temporary basis until foster homes licensed by the State of Illinois can be identified.

Chairman Moore asked what the petitioner would like the Plan Commission to do tonight. Ms. Krinninger stated that she would like for the Plan Commission to render a positive recommendation to the Village Board of Trustees for the proposed text amendment.

*In the matter of PC 14-12, Commissioner Schultz moved, seconded by Commissioner Semmelman, to recommend the Village Board of Trustees approve a Text Amendment to Section 7 of the Libertyville Zoning Code in order to include Environment, Conservation and Wildlife Organizations, limited to Humane Societies, as a permitted use in an I-1, Limited Industrial District.*

*Motion carried 6 - 0.*

*Ayes: Moore, Adams, Cotey, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: Donahue*

**PC 14-11 Village of Libertyville, Applicant**

**Request is for a Text Amendment to Section 10 of the Libertyville Zoning Code relating to the parking requirements.**

Mr. David Smith, Senior Planner, introduced the workshop topic discussion to the Plan Commission regarding parking regulations in the C-1, Downtown Core Commercial District. He stated Staff's approach to addressing the downtown parking needs included giving consideration to protecting the economic vitality of the downtown and to preserving the historical building architecture.

Mr. Smith stated that Rich & Associates completed a Parking Planning Study in 2006 of the downtown area in the Village of Libertyville. He stated that they studied a nine (9) block area bounded by the Metra tracks to the north, Mulberry Avenue to the south, and one block both east and west of Milwaukee Avenue. He stated that they studied both parking supply and parking demand. He stated that they did an inventory of the existing parking spaces in the nine (9) block area which revealed more severe parking deficits in blocks 5 and 7 which lie on the east side of Milwaukee Avenue. He stated that the turnover / occupancy analysis conducted as part of the initial field work for the Rich and Associates study done in 2006 showed peak occupancy was achieved between 11:00 a.m. and 1:00 p.m. when 57% of the overall spaces were found to be occupied.

Mr. Smith stated that Village Staff repeated the inventory in March of 2014, and this revealed a parking space count discrepancy between the 2006 inventory by Rich and Associates and the Staff inventory in 2014. He stated that the downtown parking supply in this nine (9) block area

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increased from the 2006 to 2014 primarily due to the construction of the parking deck, the inclusion of the existing commuter parking spaces not previously counted on the east side of Milwaukee Avenue north of Newberry. He stated that other discrepancies were as a result as to how existing parking areas were delineated. He stated that the Rich and Associates identified 1,314 parking spaces and the Staff inventory taken in March counted 1,801 parking spaces. He stated that both inventories counted both public and private parking areas, as well as on-street and off-street parking spaces.

Mr. Smith reviewed the parking counts block by block. He stated that Staff is currently negotiating with the property owners of the 500 block on the east side of the street with the intent of re-building the surface parking lot, re-striping it, and designating where customers and employees should park.

Commissioner Schultz asked how the study area was determined. Mr. Smith stated that the study area was based upon the geographical boundaries of the C-1 District. He stated that deficiencies were based upon the Zoning Code requirements per use. He stated that the study also looked at block zones comprised by combining two blocks per zone with the intent of determining inter-block parking capacity.

Mr. John Spoden, Director of Community Development, stated that Rich and Associates excluded the commuter lot as it had been used for valet parking in the past. He stated that the St. Joseph's church parking lot was excluded because it is in the C-2 District. He stated that the Rich and Associates' study looked at park and walk perceptions as well and determined that the C-1 parameters were appropriate.

Commissioner Schultz stated that he is concerned that it appears that commercial development appears to be drawn to the south beyond the C-1 District.

Commissioner Adams asked about the study time periods. He stated that he is concerned about identifying the proper peak times to count parked spaces. He stated that a prior study done about 10 years ago and looked at time shifts for their counts. Mr. Spoden stated that the older study was done by Walker just prior to the Rich and Associates. He stated that the Plan Commission is being asked to look at Zoning Code text amendments as it relates to outdoor dining, etc. and the other aspect is to look at the downtown parking demand. He stated that we may have to hire Rich and Associates to update the demand numbers.

Mr. Smith stated that there were recommendations by Rich & Associates in their 2006 study. He stated that in the DRC Staff report, Staff has provided a current status response to each of the recommendations.

1. Hire designated parking enforcement officer whose responsibility is parking enforcement.

*The Village currently has two Community Service Officers who work throughout the year and one summer employee all assigned to do parking enforcement in addition to their other regular duties. Approximately 20% of their time is devoted to parking enforcement.*

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2. Purchase hand-held ticket writing units and associated software.

*Village of Libertyville Community Service Officers currently use hand-held ticket writing units. Parking violation data is uploaded on the units then download at the PD station into an electronic filing system.*

3. Begin the process to increase the amount of parking supply in the CBD. The analysis has determined that there is, at present, many blocks and zones with insufficient parking to support the parking needs of the downtown. Given the nature of the downtown, structured parking will be needed to provide sufficient, convenient parking to support customer and employee parking needs.

*The Village constructed the 364 parking space three level parking deck in 2008 followed by the 128 parking space surface parking lot in 2010. Staff is currently investigating a second site for another parking deck.*

4. Where developers cannot meet the required number of parking spaces needed for new development, charge a one-time fee for each space that the development is short of the requisite number per the zoning ordinance. This fee should be at a level sufficient to offset, at least partially, the Village's cost of providing the parking and should be adjusted annually to reflect the higher cost of providing parking.

*The Village Board approved a text amendment to include a Pay in Lieu of required parking in the C-1 Downtown Core Commercial District in 2007. The Pay in Lieu requires a Special Use Permit. For each parking space waived from construction, a \$15,000 payment is required. These fees are to be dedicated towards the cost of public parking. Consideration should be given to increasing this amount to be commensurate with actual cost for construction.*

5. Eliminate the first 1,500 square foot exemption in calculating the number of parking spaces required in the CBD.

*Staff will recommend that this exemption be eliminated from the C-1 Downtown Core Commercial District.*

6. With the development of additional parking downtown, develop consistent signage to direct patrons to the parking areas. The development of a parking structure that would help to bring parking demand and supply more in line should be combined with a signage package to direct patrons to the available parking downtown from where they can reach downtown destinations.

*With the advent of the parking deck development, directional signage was installed throughout the downtown directing vehicles to the parking deck. Staff is studying this to see if additional way-finding and kiosk signage is needed.*

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Mr. Smith stated that a number of new restaurants have taken occupancy in the C-1 Downtown Core Commercial District in recent years. He stated that Staff has identified 12 tenant commercial spaces that have changed from a non-restaurant use to a restaurant use in the downtown core. He stated that six (6) of the C-1 restaurants have or will have some form of outdoor dining. He stated that seventeen (17) restaurants have taken or will have taken occupancy since 2005.

Mr. Smith stated that demolition of the southwest corner of Lake Street and Milwaukee Avenue and the subsequent construction of Manchester Square. He stated that this development included a development agreement that included the approval for 76 parking spaces. He stated that the Manchester Square developer was able to obtain credit for a certain number of parking spaces that had previously existed on the site and he was able to save a portion of an existing building and get credit for parking for that. He stated that in the end, he only needed to provide 76 parking spaces on site.

Mr. Smith stated that in response to the limited number of parking spaces required for Manchester Square due to the excessive parking credit given for the existing remnant of a building, Staff drafted a Zoning Code text amendment to tighten up how a 'structure' is defined. He stated that the C-1 District would require a parking provision for any development that did anything more than constructing new openings for windows and doors on existing structures.

Mr. David Pardys, Village Attorney, stated that at the time of development of Manchester Square, the term structure wasn't adequately defined and the developer was therefore able to get the parking credit for the building remnant. He stated that we have since then better defined structure to include walls and a roof, but then in 2013, we were asked to remove the term roof from this definition.

Mr. Spoden stated that during the development agreement negotiations with the Manchester Square developer, an existing building roof on that site had collapsed. He stated that this event is what triggered the debate with the developer as to how parking can be credited to a collapsed building that he had to essentially build around in the end. He stated that the remnant wall was rebuilt anyway.

Commissioner Adams stated that his biggest concern is the change in use and how it impacts parking in the downtown. He stated that the Arden's Furniture building is now subject to a change to a restaurant use at 8,000 square feet of floor area and this is a cause for concern.

Mr. Spoden stated that parking would not be required for a change in use in the C-1 District under the existing Code. He stated that the Mayor has suggested that a moratorium be considered in the downtown while the parking issue is studied, but this would be decided by the Village Board of Trustees.

Commissioner Adams stated that it is difficult to find a parking space in the downtown. He stated that if the Arden's Furniture building is converted into a restaurant which could occupy up to 250 customers and 40 employees there would be no place for them to park.

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Mr. Spoden stated that if parking had been required with each change in use there would not be the dynamic downtown that Libertyville has today. He stated that a majority of the downtown buildings were built before there was a Zoning Code in 1925. He stated that the thought process is to maintain a balance while confronting the parking demand. He stated that these efforts through the parking study and regulating parking in the way that the Village has done helped to produce the parking deck at Lake Street and Brainerd Avenue. He stated that it would be a significant change in policy.

Commissioner Adams stated that he believes that change in use should be reviewed as a trigger to require parking as the downtown restaurants are attracting people from a wider region than just Libertyville residents. He stated that chances are people will not come back if they cannot find parking.

Commissioner Oakley stated that the downtown is still an urban environment that encourages walking. He stated that we want to avoid paving excessive parking areas. He stated that people have been working with the current situation up to this point.

Commissioner Adams stated he is concerned about the Arden's Furniture converting into a restaurant with only 34 existing parking spaces.

Mr. Spoden stated that the new Mickey Finn's just opened with 17,000 square feet and they didn't have to provide parking spaces as they are in the C-1 District.

Commissioner Adams stated that he is concerned about the smaller retail spaces that may have produced a need to park six cars being converted into restaurants that may require parking for up to 30 cars is a problem.

Commissioner Oakley stated that it is the market forces that influence the retail to restaurant conversions. He stated that he is concerned about changing the parking requirement in the downtown to accommodate restaurant customers and employees at the risk of pricing out the owners.

Mr. Spoden presented an update of what the Parking Committee has been working on. He stated that Village Staff has been meeting with the property owners for those buildings in the north 500 block on the east side of Milwaukee Avenue to discuss how to reconstruct the parking to the rear of those buildings that would serve the customers and employees. He stated that there are ten (10) different owners and it has been difficult to get a consensus. He stated that the Village has agreed to build it, maintain it, get the land area devoted to the parking lot off of the tax roll, all with the condition that it is customer first parking. He stated that this would require locating the residents and employees parking away from the buildings and move them toward the back row of parking. He stated that not all of the owners have agreed yet but the Village has about one-half (1/2) of the lease agreements signed so far. He stated that all of the property owners will have until June 1, 2014 to sign on or nothing will be done.

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Commissioner Oakley asked if it is appropriate to consider imminent domain in this case. Mr. Pardys stated that overall it has not been the policy of the Village to pursue imminent domain. He stated that it would be a huge financial undertaking.

Mr. Spoden stated that the re-design of the 500 block east side parking lot would provide a few less than the number of parking spaces that are there today which would be 87 spaces.

Mr. Spoden stated that the 2005 Comprehensive Plan identified the area between School Street and Newberry as a possible location for the east side parking deck. He stated that the movie theater owner has indicated several times that he is interested in re-developing his property, but not interested in selling it.

Mr. Spoden stated that the Mayor indicated that a second deck should be further south. He stated that the Village approached the Cook Apartments property owner, but they were not interested in sharing a parking deck with the Village.

Mr. Spoden stated that Staff looked at the parking lot behind the AT&T building, but they were not interested.

Mr. Spoden stated that Staff looked at the parking area behind the future O'Toole's and Arden's Furniture building. He stated that a deck in this location would require the purchase of additional property to the east. He stated that there is not enough money in the TIF to both purchase property and build a deck.

Mr. Spoden stated that Staff has been in discussion with Walker Parking Consultants and they have been looking at the Civic Center parking lot as the location for a second deck. He stated that a deck at that location still provides a Level Of Service of (A-) for customers patronizing the O'Toole's and Arden's locations. He stated that this location might provide a 300 parking stall capacity with three bays. He stated that there would be several points of access for this location.

Commissioner Oakley asked about the land value for the property located between the Liberty Tower residential building and the Police Station and could there be an opportunity to redevelop that area with a parking deck. Mr. Spoden stated that it was too expensive for residential land developers to try anything let alone for a parking deck.

Chairman Moore asked if there is a projected parking need given the recent influx of restaurants in the downtown. Mr. Spoden stated that a parking consultant should be hired to calculate the projected need.

Chairman Moore stated that he wants something to help determine how far off is the Village in meeting the parking demand. He stated that the use of valet parking may need to be considered. He asked if the Presbyterian church has been contacted regarding the development of a deck. Mr. Spoden stated that they have been contacted, but the designs that they explored is reduced to a (C) or worse due to the distance from the downtown.

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Chairman Moore stated that consideration should be given to adding another level onto the existing parking deck.

Mr. Spoden stated that the cost of adding the additional level may be somewhere between 3 to 4 million dollars.

Chairman Moore asked about the current number of parking spaces in the Civic Center parking lot. Mr. Spoden stated that there are 47 parking spaces in the public parking lot behind the Civic Center.

Chairman Moore stated that the concept for the second deck to be located behind the Civic Center would probably provide a net increase of around 200 parking spaces. He stated that determining the parking need in the downtown may help to determine what should be constructed. He stated that the parking area next to BMO bank might produce a net increase of 200 spaces if that area was acquired for the second deck but there is a geometry challenge at that location.

Commissioner Adams stated that the AT&T lot and the BMO lot are very close to residential.

Chairman Moore stated that the Civic Center location is also adjacent to residential so either location would be a 'wash'.

Commissioner Oakley stated that thorough consideration is required as a parking deck will be a long term decision. He stated that property acquisition and the demolition of existing structures may have to be contemplated.

Mr. Spoden stated that the process for establishing a site for a second deck and its construction would be cost prohibitive if it included the acquisition of improved property, residential or otherwise.

Commissioner Adams stated that he agrees that a second parking deck is a good idea. He stated that consideration should be given to requiring a valet parking for the downtown restaurants.

Mr. Spoden stated that consideration should be given to taking an incremental approach and to make the simple changes to the Code in the beginning. He stated that for example, the 1,500 square foot of floor area exempted from new construction in the downtown be eliminated.

Commissioner Oakley stated that implementing a downtown 'Go Bus' program should be considered as well. He stated that it is paid for by the restaurants and business establishments.

Commissioner Oakley stated that the parking study should address the needs for the handicap as well.

Chairman Moore began to review the Rich and Associates recommendation list from their 2006 parking study. He stated that he does agree to curtail some of the incentives that were previously written into the Code.

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Commissioner Adams stated that he agrees with Chairman Moore in addition to addressing the change in use issue in the downtown.

Mr. Spoden stated that they can address the 1,500 square foot exemption fairly quickly in the code. He stated that he is concerned about the proposal by the Plan Commission to require parking for the change to a more intensive use. He stated that consideration could be given to applying a tiered approach so that the smaller tenant spaces in the downtown would not be required to provide parking if they were to change from a retail to a restaurant. He stated that this makes better economic sense otherwise the property owners or tenants for the smaller spaces may have more difficulty constructing parking spaces or paying in lieu.

Mr. Spoden stated that a tiered approach based upon square footage could be considered.

Mr. Spoden stated that the intent of the tiered approach based upon square footage would help the smaller shops to keep tenants.

Commissioner Adams stated that consideration could be given to allowing the smaller tenants do a pay-in-lieu in smaller payment increments.

Mr. Spoden stated that he is concerned that the Village will lose the current vibrancy of the downtown.

Chairman Moore stated that it is getting more difficult for more intensive uses to even come into the Village.

Mr. Spoden stated that this may be a result of the market forces.

Commissioner Semmelman stated that people are already walking further than two blocks from their parked car to a restaurant.

Chairman Moore stated that people are calling the bank where he works at to gain permission to park in their lot. He stated that this demonstrates that there is a need for more parking.

Mr. Spoden stated that this is an example of the private sector addressing this issue.

Commissioner Adams stated that the responsibility should be shared and that the Village can only do a certain amount. He stated that the Village can set the bar so that the commercial tenant would be required to contribute something at a certain level.

Mr. Spoden stated that the 'pay-in-lieu' is one of the Village's existing and effective tools.

Mr. Pardys stated that the current Code states that as long as no additional floor area is added, additional parking is not required in the downtown. He stated that when additional parking is required, a Special Use Permit for Pay-In-Lieu can be applied for. He stated that there may be a hybrid Code amendment that can be considered.

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Commissioner Semmelman stated that he concurs with utilizing the pay-in-lieu program or requiring that parking be provided for a change in use if the intensity in use changes.

Mr. Spoden stated that Staff will go back and review the concerns expressed by the Plan Commission and come back with new proposals for the text amendment to be considered. He stated that Staff can look more closely at the existing Zoning Code regulations that were intended as economic incentives in the downtown as it relates to required parking. He stated that he would still like to have the Plan Commission consider a tiered approach so that if a small restaurant provides three tables in a small outdoor dining situation the Village would then not require parking, as an example. He stated that he is concerned about the potential for additional rooftop dining in the downtown. He stated that consideration should be given to identifying outdoor dining as floor area so that they then would be required to provide parking or pay in lieu. He stated that there is a Staff concern on the other end of the spectrum that if a developer is required to do a pay in lieu, he may be persuaded to take the building down instead just to construct the required parking spaces, which could be a negative impact on historic preservation.

*In the matter of PC 14-11, Commissioner Schultz moved, seconded by Commissioner Cotey, to continue this item to the May 19, 2014, Plan Commission meeting.*

*Motion carried 6 - 0.*

*Ayes: Moore, Adams, Cotey, Oakley, Schultz, Semmelman*

*Nays: None*

*Absent: Donahue*

**PC 13-27 Village of Libertyville, Applicant**

**Request is for a Text Amendment to the Libertyville Zoning Code in order to regulate the cultivation and dispensing of medical cannabis.**

Mr. David Smith, Senior Planner, stated that the proposed text amendment has been further developed since this case was before the Plan Commission last. He stated that the Lake County Task Force created an interactive map program that enables the display of buffer areas for protected uses. He stated that the map program illustrates one of two ways of to how to regulate the proposed uses which is to require a separation between the proposed medical cannabis land uses and a list of protected uses. He stated that the second method of regulation is to determine which zoning district that the medical cannabis land uses should be permitted in. He stated that Staff is proposing that both the cultivation centers and the dispensaries should be listed as Special Permitted Uses in the I-1 Limited Industrial District.

Mr. Smith stated that the proposal is to require a 2,500 foot buffer between the cultivation centers from the protected uses.

Mr. Smith stated that the protected uses are proposed to be pre-existing public or private preschools or elementary or secondary schools or day care centers, day care homes, group day care homes, part day child care facilities, or an areas zoned for residential use. Mr. Smith stated

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that most of the Village of Libertyville would be buffered out cultivation centers when using the minimum distance of 2,500 feet separation requirement except for a portion of the northwest industrial corridor of the Village, some of which is zoned I-1 District. Mr. Smith stated that for dispensaries, the minimum distance of 1,000 feet separation is recommended.

Mr. David Pardys, Village Attorney, stated that the State of Illinois will allow up to 22 cultivation centers throughout the State, but not more than one in any police district.

Mr. Pardys stated that there hasn't been any indication that the Village of Libertyville will be an attractive place for cultivation centers or dispensaries, but if the regulations are not put in place it may make more difficult to regulate them. He stated that State Statute says that the dispensaries should be located so that they can be reasonably accessed from those who have a need for them without limitations placed upon them from the State. He stated that other limitations are in place including the minimum age of those who either work in these facilities or who can buy the product. He stated that the State Statute requires that these facilities should be regulated with zoning. He stated that caution should be used when regulating them by using the Zoning power.

Commissioner Oakley stated that he is concerned that there is a buffering separation difference between the cultivation centers which is 2,500 feet from the protected uses and the dispensaries which is 1,000.

Mr. Pardys stated that the State provides the 2,500 feet for separation between the cultivation centers from the protected uses, but does not address it for the dispensaries.

Mr. Smith presented some of the other proposed parameters for regulating these facilities including single use site, setbacks, parking, signage, age restrictions, hours of operation, security, and video surveillance.

Mr. Pardys stated that the only people that will be allowed in the dispensaries will be the employees and the patients themselves. He stated that the video surveillance at the cultivation centers would be required to be tied into a web portal with the police station. He stated that he believes that there would not be the same requirement for the video surveillance to be connected to the police station for dispensaries due to medical privacy issues.

Mr. Pardys stated that the State is mandating the regulation of these facilities and once the Village of Libertyville adopts an ordinance that will regulate them, the Village will be in a better position to respond to future requests to locate these facilities in the Village.

Commissioner Oakley asked for clarification as to the difference between locating cultivation centers and locating dispensaries per the proposed zoning regulations. Mr. Pardys stated that the proposed ordinance was based both on the State Statute and the Lake County Government ordinance.

Commissioner Oakley stated that he is concerned that the hours of delivery for the dispensaries exceed the hours of operation by one hour.

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Mr. Pardys stated that the proposed amendment before the Plan Commission is mostly taken from the State Statute and some taken from the modifications provided by Lake County and the Village of Libertyville's Zoning Code would become even more specific.

Commissioner Semmelman asked why one cultivation center per police district is granted. Mr. Pardys stated that it may have been done that way to help to disperse the facilities.

Mr. Smith requested that this request be continued to the May 19, 2014 Plan Commission meeting.

*In the matter of PC 13-27, Commissioner Schultz moved, seconded by Commissioner Semmelman, to continue this item to the May 19, 2014, Plan Commission meeting.*

*Motion carried 6 - 0.*

*Ayes: Moore, Adams, Cotey, Oakley, Schultz, Semmelman*

*Nays: None*

*Absent: Donahue*

**COMMUNICATIONS AND DISCUSSION:**

Mr. Spoden stated that the Sign Task Force Committee meeting will take place tomorrow evening. He stated that there are 14 members from the community appointed to this committee to review the sign ordinance.

Commissioner Schultz moved, seconded by Commissioner Cotey, to adjourn the Plan Commission meeting.

Motion carried 6 - 0.

Meeting adjourned at 8:48 p.m.